

## Farm Service Agency, USDA

## § 701.15

*Agricultural producer* means an owner, operator, or tenant of a farm or ranch used to produce for food or fiber, crops (including but not limited to, grain or row crops; seed crops; vegetables or fruits; hay forage or pasture; orchards or vineyards; flowers or bulbs; or field grown ornamentals) or livestock (including but not limited to, dairy or beef cattle; poultry; swine; sheep or goats; fish or other animals raised by aquaculture; other livestock or fowl) for commercial production. Producers of animals raised for recreational uses only are not considered agricultural producers.

*Annual agricultural production* means production of crops for food or fiber in a commercial operation that occurs on an annual basis under normal conditions.

*Applicant* means a person or legal entity who has submitted to FSA a request to participate in the ECP or EFRP.

*Cost-share payment* means the payment made by FSA to assist a program participant under this part to establish practices required to address qualifying damage suffered in connection with a qualifying disaster.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA, the ECP Program Manager, or designee.

*Farmland* means land devoted to agricultural production, including land used for aquaculture, or other land as may be determined by the Deputy Administrator.

*Natural disaster* means wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other naturally-occurring resource impacting events as determined by FSA. For EFRP, a natural disaster also includes insect or disease infestations as determined by FSA in consultation with other Federal and State agencies as appropriate.

[69 FR 10302, Mar. 4, 2004, as amended at 75 FR 70087, Nov. 17, 2010]

### §§ 701.3-701.12 [Reserved]

#### § 701.13 Submitting requests.

(a) Subject to the availability of funds, the Deputy Administrator shall provide for an enrollment period for

submitting ECP or EFRP cost-share requests.

(b) Requests may be accepted after the announced enrollment period, if such acceptance is approved by the Deputy Administrator and is in accordance with the purposes of the program.

[69 FR 10302, Mar. 4, 2004, as amended at 75 FR 70088, Nov. 17, 2010]

#### § 701.14 Onsite inspections.

(a) An onsite inspection must be made before approval of any request for ECP or EFRP assistance.

(b) Notwithstanding paragraph (a) of this section, onsite inspections may be waived by FSA, in its discretion only, where damage is so severe that an onsite inspection is unnecessary, as determined by FSA.

[69 FR 10302, Mar. 4, 2004, as amended at 75 FR 70088, Nov. 17, 2010]

#### § 701.15 Starting practices before cost-share request is submitted; non-entitlement to payment; payment subject to the availability of funds.

(a) Subject to paragraphs (b) and (c) of this section, costs will not be shared for practices or components of practices that are started before a request for cost share under this part is submitted with the applicable county FSA office.

(b) Costs may be shared for drought and non-drought practices or components of practices that are started before a request is submitted with the county FSA office, only if:

(1) Considered and approved on a case-by-case basis in accordance with instructions of the Deputy Administrator;

(2) The disaster that is the basis of a claim for cost-share assistance created a situation that required the producer to take immediate action to prevent further losses;

(3) The Deputy Administrator determines that the request for assistance was filed within a reasonable amount of time after the start of the enrollment period; and

(4) The practice was started no more than 60 days before the ECP or EFRP designation was approved for the applicable county office.

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(c) Any action taken prior to approval of a claim is taken at the producer's own risk.

(d) An application for relief may be denied for any reason.

(e) All payments under this part are subject to the availability of funds.

[69 FR 10302, Mar. 4, 2004, as amended at 75 FR 70088, Nov. 17, 2010]

### § 701.16 Practice approval.

(a) Requests shall be prioritized before approval based on factors deemed appropriate by FSA, which include, but are not limited to:

- (1) Type and degree of damage;
- (2) Type of practices needed to address the problem;
- (3) Availability of funds;
- (4) Availability of technical assistance;
- (5) Environmental concerns;
- (6) Safety factors; or
- (7) In the case of ECP, welfare of eligible livestock.

(b) Requests for cost-share assistance may be approved if:

- (1) Funds are available; and
- (2) The requested practice is determined eligible.

[69 FR 10302, Mar. 4, 2004, and amended at 75 FR 70088, Nov. 17, 2010]

## §§ 701.17–701.120 [Reserved]

### § 701.21 Filing payment application.

Cost-share assistance is conditioned upon the availability of funds and the performance of the practice in compliance with all applicable specifications and program regulations.

(a) *Completion of practice.* After completion of the approved practice, the participant must certify completion and request payment by the payment request deadline. FSA will provide the participant with a form or another manner to be used to request payment.

(b) *Proof of completion.* Participants shall submit to FSA, at the local county office, the information needed to establish the extent of the performance of approved practices and compliance with applicable program provisions.

(c) *Payment request deadline.* The time limits for submission of information shall be determined by the Deputy Administrator. The payment request deadline for each ECP practice will be

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provided in the agreement after the application is approved. Time limits may be extended where failure to submit required information within the applicable time limits is due to reasons beyond the control of the participant.

### § 701.22 Eligibility to file for cost-share assistance.

Any eligible participant, as defined in this part, who paid part of the cost of an approved practice may file an application for cost-share payment.

### § 701.23 Eligible costs.

(a) Cost-share assistance may be authorized for all reasonable costs incurred in the completion of the practice, up to the maximums provided in §§ 701.126, 701.127, and 701.226.

(b) Eligible costs shall be limited as follows:

(1) Costs for use of personal equipment shall be limited to those incurred beyond the normal operation of the eligible land.

(2) Costs for personal labor shall be limited to personal labor not normally required in the operation of the eligible land.

(3) Costs for the use of personal equipment and labor must be less than that charged for such equipment and labor by commercial contractors regularly employed in such areas.

(4) Costs shall not exceed those needed to achieve the minimum performance necessary to resolve the problem being corrected by the practice. Any costs above those levels shall not be considered to be eligible costs for purposes of calculations made under this part.

(c) Costs shall not exceed the practice specifications in § 701.112(d) or § 701.212(d) for cost-share calculations.

(d) The gross amount on which the cost-share eligibility may be computed will not include any costs that were reimbursed by a third party including, but not limited to, an insurance indemnity payment.

(e) Total cost-share payments from all sources shall not exceed the total of eligible costs of the practice to the applicant.

[69 FR 10302, Mar. 4, 2004, and amended at 75 FR 70088, Nov. 17, 2010]